## VI

### MOTIONS ON MATTERS OF GENERAL PUBLIC INTEREST.

### AMENDMENT OF SECTION 130 OF THE ESTATES LAND ACT.

* The ZAMINDAR OF GOLLAPALLI :—" I beg to move

'*that this Council recommends to the Government that section 130 of the Estates Land Act be so amended as to permit a proprietor purchasing the property of a defaulting tenant for arrears of rent to set off against the purchase money the amount due to him from such tenant.*'

"Sir, I understand that under the Civil Procedure Code it is usual to allow a set-off of the decree amount if the judgment-debtor purchases the sale property. Now under section 112 if a property is brought to sale and under section 130 if the proprietor purchases the property he is forced to pay the whole amount of money. He is to pay double the amount of money, once in the shape of arrears of rent and another time in the shape of the purchase money. Of course it may be contended that he would get the money back after some time. But the purchaser will have to undergo a lot of difficulty and lose a large sum by way of interest. I request the Government to be pleased to introduce such a section in the amending Bill which will remove the difficulty to which the proprietor is put."

Mr. R. NAGAN GOWDA :—" I second it."

11-30 a.m. * The hon. the PRESIDENT :—" The question is 'that this Council recommends to the Government that section 130 of the Estates Land Act be so amended as to permit a proprietor purchasing the property of a defaulting tenant for arrears of rent to set off against the purchase money the amount due to him from such tenant'."

Rao Bahadur B. MUNISWAMI NAYUDU :—" Mr. President, Sir, I do not think that an amendment of this sort is necessary especially having regard to the way in which properties worth Rs. 400 and 500 are purchased by zamindars for nominal values of 4 annas and 5 annas. The vagaries of the Estates Land Act are many and varied and I do not want that another should be added to them. The sales of properties for payment of a small sum or execution of decree are very often held in village chavadis or under a tree. Nobody knows where the sales are held. Somebody bids or nobody bids. It is stated that the property was purchased in the name of the proprietor's agent. Whether the agents have got power of attorney or not is doubtful. It is rather dangerous that somebody acting in the name of the proprietor should sit somewhere under the shade of a tree, that he should bid and set off against the purchase money the amount due to the proprietor from the tenant. Unless the sale is conducted in a public place there will be no guarantee that the zamindar bids for a proper amount. I do not think that any zamindar should be given help of this sort when he purchases the lands for 4 or 5 annas and deducts from this amount the money due by the tenant to the zamindar. If the properties are sold in public auction I can understand it. If it is a case in which the property is sold in the precincts of the court with a presiding judge I can understand it. When the sales are held in far-away villages and when many of them are not sometimes properly

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conducted, I think it is conferring too much in favour of the landlords that such an indulgence should be given to them. The landlord can always afford to bid for a small sum of rupee one for lands worth large sums of money. I think an amendment of this sort would create serious hardship so far as the tenants' interests are concerned."

*The RAJA OF RAMNAD :—" Mr. President, Sir, I am of opinion that this motion is not quite opportune now in view of the fact that the Government have before them the amendment of the Estates Land Act and that the amending Bill is in sight. After hearing the remarks which fell from my hon. Friend, the Member from Chittoor, the champion of zamindari ryots or other ryots, I am compelled to say a few words in defence of zamindars. After all, these sales take place in public auctions. What is the relief that the hon. Mover has asked ? He has simply asked that the amount due from the ryot, i e., the decreed rent, should be set off against the purchase money. Where is the question of any fraud ? If the sale is effected by fraudulent means it will be set aside on appeal by the ryot who can move the court and have the sale set aside I know of several cases where the sales have been set aside. Even if the revenue courts sometimes do not set aside such sales by some device or other the matter is taken to the civil court where they are set aside The remarks of the hon. Member from Chittoor is too sweeping and a slander against a class which deserves better treatment. The hon. Mover has brought forward a very innocent resolution though, as I said, in a rather inopportune moment. I request the hon. Mover to withdraw the motion."

* Rao Bahadur Sir A. P. PATRO :—" Sir, under the Civil Procedure Code for execution of decree we bring the property to sale by a process, first of attachment and then proclamation of sale and actual auction in the precincts of the court or as the proclamation decides elsewhere near the land. Discretion is left to the court to decide at the time of the settlement of the proclamation whether the land is to be sold within the premises of the court or somewhere else. The decree-holder has got a right to apply for permission to bid at the sale and when the court gives him permission he can bid for the amount of decree passed against the judgment-debtor. In the ordinary course of procedure, in the case of a decree obtained in a civil court, facilities are provided for realizing the amount as easily as possible. Applying the same analogy and the same principles provision must be made in the Estates Land Act also so far as execution proceedings are concerned. Two methods are provided for realization of rent in the Estates Land Act. One is the summary procedure as contained in sections 112 and 114 whereby the land can be attached and brought to sale for arrears due under certain conditions. Or a decree is obtained in a revenue court. In both these cases it is open to the court to fix the place of sale either at the place where the property is located or at the court premises. The judgment-debtor and the landlord have equal opportunities of laying before the court the place which is most convenient in the interest of both of them, where the property is to be sold. Therefore I cannot follow the hon. Member from Chittoor when he said that the property was sold under a tree or somewhere else in a village and that the tenant would be deprived of the opportunity of fair sale and fair play. The procedure that was narrated by the hon. Member from Chittoor was not correct because the place where the property is to be sold will be settled at

the time of the settlement of the proclamation by the court. If the property is sold the judgment-creditor has got a right under the ordinary civil procedure to get the amount of the decree. Why should we deprive that right and privilege to the landlord to realize the amount of the decree in that form? It seems to me to be unfair that the landlord should be deprived of this right available to a creditor. When a decree is passed and the property is sold for a certain sum it is quite necessary that the amount of the decree should be debited. It is the usual procedure in the civil court and the same procedure is sought to be adopted in these cases also.

"But as the hon. Member, the Raja of Ramnad, has suggested, I think the hon. Mover is very unwise in bringing this matter before the House at this stage. It is quite unnecessary to bring a piecemeal proposal like this now. An amending Bill is under consideration of the Government. What is the procedure to be followed for the realization of the rent due under sections 112 and 113 is one of the points that was keenly contested in the Special Committee itself. Therefore I would ask the hon. Mover not to press the resolution and to withdraw it because this question and other connected questions will be dealt with in connexion with the amending of the Act."

* The hon. Sir NORMAN MARJORIBANKS :—"Mr. President, Sir, as more than one hon. Member has pointed out, the question of the amendment of the Estates Land Act has been under consideration for some time and a committee has been dealing with it and has prepared a draft Bill which is complete, I understand, except for two clauses. That draft Bill contains a provision on this very point which has been discussed to-day. So there need be no fear that the matter will not receive attention. The Bill has yet to be considered by the Government and what has been urged on both sides to-day will be borne in mind when they deal with the proposals in the draft Bill. I would suggest that it is not necessary to deal with this matter now and come to a decision on this isolated matter in advance of the whole Bill."

* The ZAMINDAR OF GOLLAPALLI :—"Mr. President, Sir, I am sorry to note that my motion was misunderstood by some hon. Members. It is only intended to expedite matters. We do not know what is taking place in the committee; the proceedings of the committee are kept secret—of course it is the convention to keep them secret. I have brought forward this motion which is very innocent as stated by my hon. Friend. As the Government have been pleased to give the assurance that they would consider the question, I withdraw the resolution."

The resolution was, by leave of the House, withdrawn.

## LEVY OF TAX ON LANDS IN MUNICIPALITIES AT A RATE DIFFERENT FROM THAT ON BUILDINGS.

* Mr. V. I. MUNISWAMI PILLAI :—"Sir, I beg to move that

'*this Council recommends to the Government that the Madras District Municipalities Act be amended so as to empower municipal councils to levy the tax on lands at a rate different from that on buildings.*'

"In doing so I should like to bring home to the Council that it is very necessary that different rates of taxation should be levied on lands and buildings. In the pre-reform days the municipal councils had discretion to levy taxes on buildings at a rate different from those levied on lands.